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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,026	11/26/2003	Andrew C. Seys	15730.2100	7269
48236	7590	08/04/2005	EXAMINER	
SNELL & WILMER, LLP ONE ARIZONA CENTER 400 E. VAN BUREN PHOENIX, AZ 85004-2202			RAEVIS, ROBERT R	
			ART UNIT	PAPER NUMBER
			2856	

DATE MAILED: 08/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/724,026

Applicant(s)

SEYS ET AL.

Examiner

Robert R. Raevis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: controller 330 (p. 11, line 4 from last), alarm 350 (p. 11, line 2 from last). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim 27 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. As to claim 27, how does measurement over multiple actuations achieve a "set range of movement"? What is the relation between the measurements and set range of movement?

Claims 6,8,9,11,12 and 19-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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As to claim 6, "the collection tank" lacks antecedent basis.

As to claim 8, does "equipment" refer back to the "pump" (of claim 1), suggestive that the same element is claimed twice?

As to claim 9, "said actuation variables" lack antecedent basis.

As to claim 11, what does "infinite" refer to in the specification/drawings? The specification does refer to "continuous", but even that term is quite limited as described on p. 13, lines 2-4.

As to claim 19, "said performance information" lacks antecedent basis.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Applicant's Statements.

Applicant describes (p. 1, Para 3) testing of hand actuated pump devices (and methods) in a manual manner.

However, Applicant does not describe any of the tests with any level of particularity. In addition, the admission does not extend to "automated" testing and recording.

As to claims 1,4,5,7,8,10,11,12,13,14,17,21,23,24,25,26,27, it would have been obvious to test a hand pump device to assure that it is properly functioning prior to sale to reduce the possibility of selling/using a defective product. Such a test would demand

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sufficient (continuous) source of fluid, as individuals generally squeeze pumps multiple times to allow for the fluid to pass through the nozzle. Testing in closed quarters necessarily include a region/closed-container for catching dispensed material, especially as some spray materials (e.g. TILEX) are noxious. It would have been obvious to measure either the quantity of material (or direction of spray relative to the visual appearance of the nozzle direction) to provide the tester with a numerical value to compare pump performance with a reference to satisfy the pump is in condition for sale/use. Finally, it would have been obvious to carry out testing in an automated environment because it is known to provide an automatic means to replace a manual activity which accomplishes the same result. (See MPEP 2144.04) Finally, testing of items in a manufacturing facility routinely include recording results to determine if the manufacturing facilities are producing a statistically satisfactory product, if not resulting in repair/readjustment of the manufacturing device. Use of an alarm is commonly employed in testing equipment of a manufacturing plant when the number of defective products is exceedingly high.

As to claims 2,3,9,15,16,22, it would have been obvious to adjust actuation component orientation as it would have been obvious to adapt the same automatic tester to permit for testing a variety of hand pumps, as different pump models have different dimensions, and automated test devices are costly.

As to claims 6, 20, it is known to test dispenser for the quantity of material ejected per actuation.

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As to claims 18,25,26,27, it is known to utilize repetitive motion to test movable items to allow for determination of the working life of the item.

As to claim 19, one of ordinary skill would desire a smooth pull on a hand pump to provide the buyer with an indication of quality. A smooth pull necessarily demands that a constant force over time allows for operation, as opposed to a sticking/erratic force.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Braunlich tests a pump 45 with a calibration tube 49 which indicates the amount of fluid passing through the pump.

Kampls tests (Figure 1) spray distribution of a nozzle/ejector.

Arens tests a meter with electrical apparatus.

Pippert tests both rate (display 18) and rate (display 19) of an injector.

Ortoli and Yeh test an apparatus by application of an automatic device, as opposed to manual.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert R. Raevis whose telephone number is 571-272-2204. The examiner can normally be reached on Monday to Friday from 6:30am to 4pm. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "R. H. W.", followed by a horizontal line.

RAEVIS